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6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF WASHINGTON  
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10 UNITED STATES OF AMERICA,  
11 Plaintiff,  
12 v.  
13 ALICE ESPINOZA (7),  
14 Defendant.  
15

16 NO. CR-05-2075-7-EFS  
17

18 **ORDER DENYING, WITH LEAVE TO  
19 RENEW, DEFENDANT ESPINOZA'S  
20 MOTION TO DISMISS SUPERCEDING  
21 INDICTMENT**

22 A hearing was held in the above-captioned matter on January 17,  
23 2006. Defendant Alice Espinoza was present, represented by Ed Alden.  
24 Assistant United States Attorney Jane Kirk appeared on behalf of the  
25 United States. Before the Court was Ms. Espinoza's Motion to Dismiss  
26 Superceding Indictment as to Alice Espinoza (Ct. Rec. 823). After  
reviewing the submitted material and relevant legal authority and hearing  
oral argument, the Court was fully informed. This Order serves to  
supplement and memorialize the Court's oral ruling denying, with leave  
to renew, Ms. Espinoza's motion.

27 Ms. Espinoza asks the Court to dismiss the Superseding Indictment  
28 against her, maintaining the Government has no evidence to support the  
29 counts that relate to her: Count 1 (conspiracy), Count 8 (Maintaining a  
30 Place for Drug Trafficking in violation of 21 U.S.C. § 856(a)(2)), Count

1 21 (Use of Communication Facility in violation of 21 U.S.C. § 846 &  
2 841(a)(1)), and Count 22 (Possession of Marijuana in violation of 21  
3 U.S.C. § 843(b)). The Government highlights a Federal Rule of Criminal  
4 Procedure 29 motion is the method by which Defendant can seek dismissal  
5 of the indictment, noting a Rule 29 motion is appropriate only after the  
6 Government has rested at trial.

7 The Court finds Defendant has failed to point to legal authority  
8 allowing the Court to dismiss charges prior to trial; neither has the  
9 Court found such authority. Accordingly, the Court finds Defendant's  
10 dismissal motion is premature; Defendant may renew such motion when  
11 appropriate under Rule 29 or upon the filing of a brief explaining the  
12 Court's authority to dismiss charges prior to the Government resting at  
13 trial. For these reasons, **IT IS HEREBY ORDERED:** Defendant Alice  
14 Espinoza's Motion to Dismiss Superceding Indictment as to Alice Espinoza  
15 (**Ct. Rec. 823**) is **DENIED**, with leave to renew.

16 **IT IS SO ORDERED.** The District Court Executive is directed to enter  
17 this order and to provide copies to all counsel.

18 **DATED** this 17th day of January, 2006.

19  
20 S/ Edward F. Shea  
21 EDWARD F. SHEA  
United States District Judge

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ORDER \* 2